LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House
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FISCAL IMPACT STATEMENT

LS 7901
BILL NUMBER: HB 1979

DATE PREPARED: Mar 22, 2001
BILL AMENDED: Mar 22, 2001

SUBJECT: Merchant Powerplant Siting.

FISCAL ANALYST: John Parkey
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FUNDS AFFECTED: GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill defines the term "merchant power plant". It provides that a merchant power plant is subject to the jurisdiction of the Indiana Utility Regulatory Commission (IURC), except for a plant that has petitioned the IURC before March 1, 2001, for an order that the IURC decline to exercise its jurisdiction over the plant.

The bill requires a merchant power plant to give notice of a proposed facility to property owners within one half mile of the proposed facility and to hold a field hearing to determine local support for the facility. The bill provides that after the field hearing, a majority of the property owners may request a hearing before the IURC. The bill requires the IURC to issue written findings based on testimony at the hearing. The bill establishes the criteria the Indiana Utility Regulatory Commission (IURC) must consider when considering a merchant power plant application, including preferred siting locations.

The bill provides that when considering whether to approve a plant, the IURC must obtain a recommendation from the Department of Natural Resources (the "Department") regarding the plant's planned use of and potential effect on a water resource. The bill requires a merchant power plant to provide to the IURC and the Department an assessment, prepared by a licensed geologist or engineer, of its effect on the water resource and its users.

The bill requires a merchant power plant that seeks: (1) approval from the IURC; or (2) alternative regulation by the IURC; to establish proof of financial responsibility in an amount determined by the IURC.

The bill requires the IURC to issue a decision either approving or denying a merchant power plant's petition for approval or for alternative regulation not later than eighteen months after the date of the petition.

The bill lists the duties of the merchant power plant following approval by the IURC.

The bill provides that if a merchant power plant that has received IURC approval: (1) fails to commence construction of the plant within two years of the date of the IURC's approval; or (2) has not substantially completed construction of the plant within five years of the date of the IURC's approval; the IURC may revoke its approval of the plant.

The bill provides that the IURC may decline to exercise jurisdiction over a facility that has applied to the IURC before March 1, 2001. It also specifies that the IURC has jurisdiction over a merchant power plant that has made a significant alteration in the labor used to construct or remodel the facility.

Effective Date: (Amended) Upon Passage.

Explanation of State Expenditures: (Revised) *IURC:* This bill places merchant power plants under the jurisdiction of the IURC. Under this proposal, a new merchant power plant would be required to petition the IURC for approval to construct the facility. The bill requires the IURC to consider the following when reviewing a plant's petition: location, need, financing, reporting requirements, a plant's impact on utility suppliers and customers, and recommendations from the Department of Natural Resources. The bill also requires the Commission to establish rules and standards related to a potential plant's closure. The IURC is required by this bill to give preference to brownfield sites, sites of existing plants, or other sites identified for power plant or heavy industrial development in local land use plans.

The bill also requires the IURC to exercise jurisdiction over exiting merchant power plants if the operators of a facility do not use contractors, subcontractors, or work crews who have not completed a jointly administered labor and management program approved by the United States Department of Labor's Bureau of Apprenticeship Training.

Depending on the number of facilities that seek regulatory approval, this bill is expected to increase the administrative costs of the IURC. However, any increases in the IURC's administrative costs are expected to be absorbed using existing staff and resources. The bill requires the IURC to rule on a petition within 18 months after it has been filed.

DNR: The bill requires the Department of Natural Resources (DNR) to make a recommendation to the IURC regarding a proposed merchant power plant's planned use of and its potential effect on water resources. The bill allows the Department to make its recommendation based on a specified assessment provided by the petitioning power plant or through the Department's own activities.

The impact of this bill on the DNR will depend on the number of powerplants that petition the IURC and on the specific requirements of each site.

Explanation of State Revenues: (Revised) The Indiana Utility Regulatory Commission and the Office of the Utility Consumer Counselor are funded by public utilities. The annual fee charged to utilities is based on the budgets of these two agencies. At the end of the fiscal year, if the total public utility fees in the Public Utility Fund plus the unspent balance of the Fund exceeds the total appropriations for the IURC and the OUCC (plus a $250,0000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees. In FY 2000, public utility fines and fees generated $8,053,986.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Department of Natural Resources.

Local Agencies Affected:

Information Sources: Indiana Utility Regulatory Commission.